

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 2266 – HB 2531

April 10, 2018

SUMMARY OF ORIGINAL BILL: Increases, from 30 days to 45 days, the period of time following the last day of the sales period during which a dealer of aviation fuel is required to file a report with the Commissioner of the Department of Revenue (DOR) stating the total amount of gallons in aviation fuel sold and the dollar amount collected from such sales.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

CORRECTED SUMMARY OF AMENDMENT (016247): Deletes all language after the enacting clause. Establishes that any spallation neutron source facility, eligible for the state and local sales and use tax exemption authorized in Tenn. Code Ann. 67-6-384, shall not be eligible for any sales and use tax exemption with regard to any industrial machinery used in the operation of a qualified data center or used primarily for research and development.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On April 6, 2018, a fiscal memorandum was issued for this bill as amended. The summary for the amendment was incorrect. As a result, the summary for the bill as amended has been corrected. The fiscal impact for the bill as amended remains unchanged.

Increase State Revenue – Exceeds \$67,500

Increase Local Revenue – Exceeds \$27,500

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 67-6-384(a), a spallation neutron source facility that is funded by the United States government or an instrumentality thereof, not funded with state funds and located at a national laboratory, is exempt from the state and local sales tax liability.

SB 2266 – HB 2531 (CORRECTED)

- Such exemption currently applies to: property that becomes a component part of or is used exclusively in the operation or repair of the facility, services, materials or items furnished or supplied to the facility and used exclusively in the operation of the facility, and property, services, building materials, machinery, equipment, supplies, repair parts, replacement materials or other items used exclusively in the construction, operation or repair of the facility or its operations.
- The bill as amended will remove this exemption for purchases of industrial machinery that is used by the facility in the operation of a qualified data center or used primarily for research and development.
- Limiting the applicability of the exemption will result in an increase in state and local sales and use tax revenue.
- According to the Department of Revenue (DOR), there is one taxpayer to which this exemption currently applies.
- The DOR cannot provide the historical exemption amounts claimed by this one taxpayer due to taxpayer confidentiality law, and in addition, the specific portion of the current exemption provided in conjunction with purchases of industrial machinery used in the operation of a qualified data center or used primarily for research and development cannot be determined with any reasonable certainty.
- It is reasonably assumed that current annual purchases by this one taxpayer for industrial machinery used in the operation of a qualified data center or used primarily for research and development exceed \$1,000,000 per year.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- A recurring increase in state revenue exceeding \$67,468 $[(\$1,000,000 \times 7\%) - (\$1,000,000 \times 7\% \times 3.617\%)]$.
- A recurring increase in local revenue exceeding \$27,532 $[(\$1,000,000 \times 2.5\%) + (\$1,000,000 \times 7\% \times 3.617\%)]$.
- This legislation will not result in any decrease in taxable purchases by this one taxpayer, as it is assumed that, in the absence of this legislation, any tax savings that would be realized from purchases of such industrial machinery under current law would be used to purchase tax-exempt items.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista M. Lee RNC

Krista M. Lee, Executive Director

/jdb